UNITED STATES PATENT AND TRADEMARK OFFICE

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10/535,327	02/06/2006	Christopher G Steel	GB 020197	5733

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EXAMINER
GONZALEZ, AMANCIO

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte CHRISTOPHER G. STEEL

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Appeal 2009-010215
Application 10/535,327
Technology Center 2600

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Before JOHN C. MARTIN, ALLEN R. MacDONALD, and ELENI
MANTIS MERCADER, *Administrative Patent Judges.*

MacDONALD, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil
action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing,
as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE"
(paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery
mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

Introduction

Appellant appeals under 35 U.S.C. § 134 from a rejection of claims 1-4. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

Exemplary independent claim 1 under appeal reads as follows:

> 1. A method of distributing the location of a mobile device comprising the steps of:
> determining the location of the mobile device
> encrypting the determined location using an encryption key;
> transmitting the encrypted location to a server;
> storing the encrypted location at the server;
> querying the server from a remote terminal;
> transmitting from the server to the remote terminal the encrypted location in response to the query;
> sharing the predetermined encryption key between the mobile device and the remote terminal but not with the server; and
> decrypting the location at the remote terminal using the predetermined encryption key.

Appellant's Contentions

Appellant contends that the Examiner erred in rejecting claims 1-4, under 35 U.S.C. § 103(a) as being unpatentable over Herle (US 7,013,391 B2) because:

> . . . Herle states that the server determines if the decryption key is accurate before allowing the requesting entity to access the location information. This clearly is not equivalent to 'sharing the predetermined encryption key between the mobile device and the remote terminal but not with the server.' Furthermore,

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there is nothing in this embodiment which suggests not sharing
the encryption key with the server.

(App. Br. 5) (Emphasis omitted).

Issues on Appeal

Did the Examiner err in rejecting claims 1-4 as being obvious because
Herle fails to teach or suggest the claim limitation at issue?

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's
arguments that the Examiner has erred.

We disagree with Appellant's conclusion. We adopt as our own
(1) the findings and reasons set forth by the Examiner in the action from
which this appeal is taken and (2) the reasons set forth by the Examiner in
the Examiner's Answer in response to Appellant's Appeal Brief. We
concur with the conclusion reached by the Examiner.

Additionally, the Examiner reiterates in the Answer at pages 6-7 that:

> Regarding appellant's arguments that Herle, the applied
> prior art reference, does not disclose "sharing the predetermined
> encryption key between the mobile device and the remote
> terminal but not with the server", the examiner reasserts that
> Herle discloses a second embodiment in which a person of
> ordinary skill in the art would clearly see that said argued
> feature is taught in column 6 lines 46-60, which citation
> follows:
>> MS location server 160 stores the encrypted
>> MS 111 position data in a corresponding record in
>> mobile station database 350 (process step 415).
>> Thereafter, MS location server 160 may
>> periodically or aperiodically receive access
>> requests from client access devices. MS location

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> server 160 then authenticates the client access
> devices using user name and password verification
> procedures (process step 420). <u>In one
> embodiment of the present invention, if the
> client access device properly authenticates, MS
> location server 160 transmits the encrypted MS
> 111 position data to the client access device,
> which then decrypts the MS 111 position data.</u>
> In an alternate embodiment of the present
> invention, MS location server 160 decrypts the MS
> 111 position data and transmits unencrypted MS
> 111 position data to authenticated client device
> (process step 425).

Then the Examiner goes on to newly find in the Answer at page 7 that:

> The examiner reads the underlined part of the previous
> citation as disclosing the argued feature because the server is
> authenticating the device using a *user name and password, not
> encryption keys* (no need to exchange keys or for the server to
> know the keys) and the server further sends the position data
> encrypted so that the device can decrypt the data (i.e., no
> decryption is performed at the server *in this embodiment*).

Appellant does not dispute the Examiner's new findings.

CONCLUSIONS

 (1) Appellant has not shown that the Examiner erred in rejecting claims 1-4 as being unpatentable under 35 U.S.C. § 103(a).

 (2) Claims 1-4 are not patentable.

DECISION

The Examiner's rejections of claims 1-4 are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

gvw

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